

MPG 1050.2

BASELINE

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# **MARSHALL PROCEDURES AND GUIDELINES**

**CD01**

## **Space Act Agreements And "Other Transactions"**

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### DOCUMENT HISTORY LOG

Status (Baseline/ Revision/ Canceled)	Document Revision	Effective Date	Description
Baseline		8/4/2003	Instructions in MWI 1050.3 have been moved up into this procedure, and additional clarification of the process provided. MWI 1050.3 has been cancelled.

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## PREFACE

### P.1 PURPOSE

To establish Marshall Space Flight Center (MSFC) procedures to take actions related to Space Act Agreements, both reimbursable and nonreimbursable.

### P.2 APPLICABILITY

This procedure governs Space Act Agreements between MSFC and domestic governmental and nongovernmental entities. Agreements with foreign governments or entities shall be referred to Headquarters for execution per the guidelines contained in NPG 1050.1, "Space Act Agreements."

### P.3 AUTHORITY

The National Aeronautics and Space Act of 1958, as amended, specifically Section 203(c)(5) and (6)[42 U.S.C. § 2473] and Section 205 [42 U.S.C. § 2475].

### P.4 APPLICABLE DOCUMENTS

- a. NPD 1050.1, "Authority to Enter Into Space Act Agreements"
- b. NPG 1050.1, "Space Act Agreements", and other authorities sited therein
- c. NPG 1441.1, "NASA Records Retention Schedules"
- d. MPD 1200.3, "Power and Authority Directive for Marshall Space Flight Center (MSFC) Operations"
- e. CD30-OWI-001, "Technology Transfer Department Organizational Work Instruction"

### P.5 REFERENCES

MPG 7120.1, "Program/Project Planning"

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## P.6 CANCELLATION

MWI 1050.3, "Policy And Authority To Take Actions Related To Reimbursable and Nonreimbursable Space Act Agreements" dated June 14, 2001

Original signed by  
Axel Roth for

David A. King  
Director

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## DOCUMENT CONTENT

### 1. DEFINITIONS

1.1 Agreement - For the purpose of this document agreement refers to a Space Act Agreement or "Other Transaction" as defined below.

1.2 Cooperative Agreement - The legal instrument reflecting a relationship between NASA and a recipient whenever the principal purpose is the transfer of anything of value to the recipient (including cash) to accomplish a public purpose of support or stimulation authorized by Federal Statute. Cooperative Agreements are typically executed with academia and not-for-profit entities. The Procurement Office (PS01) is the originating organization and Office of Record for cooperative agreements.

1.3 Modifications - Agreements may be modified as required to delineate necessary changes to any aspect of the agreement. The modification must be requested before the original agreement expires.

1.4 Nonreimbursable Agreement - Permits NASA to offer its facilities, personnel, expertise or equipment as part of a collaborative arrangement. It is appropriate to use a nonreimbursable agreement where NASA and its agreement partner(s) are performing activities in cooperation, for which each is particularly suited, and for which intended results are of interest to both parties. In order to use a nonreimbursable agreement, the NASA program manager or signing official must determine that the other party's contribution provides an adequate quid pro quo compared to NASA's contribution, recognizing that facilitating the transfer of technology is part of NASA's core mission. The benefit to the agency from participating in the arrangement must be adequate as compared to its investment, the risks it assumes, and the parallel risks and potential benefits accruing to the other party.

Types of nonreimbursable agreements include letter agreements, a Memorandum of Understanding (MOU), or Memorandum of Agreement (MOA). Domestically, MOU's and MOA's are used, sometimes interchangeably, for agreements with Federal or state entities. The title of the agreement is not determinative. What is important is to understand the responsibilities of the parties and the level of the Agency's commitment. Domestic MOA's and MOU's, which are not intended to be legally enforceable, are

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distinguishable from other nonreimbursable agreements, which are intended to be enforced through legal means.

1.5 "Other Transactions" - In addition to contracts, grants, cooperative agreements, and Space Act Agreements, MSFC enters into a variety of "other transactions". These other transactions take a variety of forms and the Technology Transfer Department is the coordinating office and Office of Record for these "other transactions". However some transactions may be and are negotiated by other MSFC organizations. In an effort to maintain accountability of all MSFC transactions, all organizations are to request an agreement number from the Technology Transfer Department when they initiate an "other transaction" and provide the Technology Transfer Department with a record copy of the final agreement/transactions.

1.6 Reimbursable Agreement - The term "reimbursable" is used to indicate those instances where the Government is receiving payment for the goods or services it provides. Two types of reimbursable agreements exist: those that are fully reimbursable and others covering partially reimbursable activities. A reimbursable agreement permits a public or private entity to use NASA facilities, personnel, expertise, or equipment to advance its interests. Unless a statute or agency waiver allows for less than full cost reimbursement, NASA is reimbursed for all accountable costs. Even when NASA could meet a request for reimbursable services, two threshold considerations must still be met. The first is that the proposed activity must be consistent with NASA's mission. The second is that NASA must protect private sector entities from federal government competition.

1.7 Space Act Agreement (SAA) - A Space Act Agreement is a signed agreement, which establishes the relationship between MSFC and another party to the agreement (external entity) requiring a commitment of NASA resources (funding, services, equipment, expertise, facilities, etc.) to accomplish the objectives of the agreement.

## **2. RESPONSIBILITIES**

2.1 The Technology Transfer Department (CD30) is the coordinating organization for all Space Act Agreements and is responsible for assuring that programmatic and resource requirements, as well as technical activities and risks/benefits, are addressed. Also, the Technology Transfer Department is the process owner and Office of Record for all Space Act Agreements and "other transactions."

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2.2 MSFC organizations will coordinate with the Technology Transfer Department when they initiate a contact with a potential partner. They shall provide timely inputs for Center Action Items Tracking System (CAITS) actions, statement of work, facility requirements, cost estimate, and provide document review.

### 3. PROCEDURE

3.1 An agreement is required whenever there is a commitment of NASA resources involving an entity other than NASA. The NASA resources committed to the project may include time and effort of personnel and support services, use of facilities, use of equipment, and where appropriate, direct funding.

3.2 It is MSFC policy to make available, to the extent practical and consistent with United States law and policy, its facilities, equipment, and associated services (resources) for research, development, and testing with other entities including industry, universities, government agencies and centers for the purpose of advancing technology and technology transfer. The provision of MSFC resources shall be on a noninterference basis. In determining whether to make MSFC resources available and the basis for such availability (reimbursable or nonreimbursable) for a specific cooperative effort, the following shall be considered:

3.2.1 The value of the technology to the national needs and aiding the transfer of technology to the commercial sector;

3.2.2 The engineering or scientific objectives sought to be achieved through the research or testing effort and the degree of relevancy of the activity to MSFC programs and technologies;

3.2.3 The adequacy and substantive value of the consideration which is expected to benefit MSFC;

3.2.4 The magnitude and availability of the MSFC resources associated with the proposed activity;

3.2.5 Availability of similar resources in the private sector;

3.2.6 Nature, scope, and allocation of risk among the parties regarding potential injury to personnel or damage to resources and/or potential environmental impact at MSFC, if any;

3.2.7 Potential implications to related procurements in the provision of the resources, e.g., that the activity is not

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required by a pending or current NASA or other U.S. contract or grant;

3.2.8 Nature and extent of foreign participation, if any;

3.2.9 Nature and extent of facility construction and modifications, if any.

3.3 Although initial, pre-agreement discussions to determine probable interest and feasibility by performing organization personnel and potential participants probably have taken place, all formal requests for the use (other than a request by a MSFC contractor for performance of a MSFC contract function) of MSFC resources shall be submitted in writing, addressed to Space Act Agreement Request, CD30/Technology Transfer Department, MSFC, AL 35812. The Technology Transfer Department shall assure proper disposition, including interfacing with the requestor, identifying and coordinating with the cognizant MSFC organization, establishing formal agreements, obtaining funding, tracking, and reporting.

3.4 The performing organization(s) will coordinate all technical activity, risk assessments, resource estimating (in conjunction with the guidelines provided by the Center's Chief Financial Officer), facility and modification requirements, and technical performance reporting.

3.5 As Office of Record, the Technology Transfer Department shall maintain a records management system. A unique number will be assigned to each Space Act Agreement request and any "other transaction". Any documentation resulting from a request or "other transaction" will be filed by the assigned number. The Technology Transfer Department shall maintain each executed agreement and shall prepare reports to the MSFC Center Director and NASA Headquarters on these agreements as necessary.

3.6 The Technology Transfer Department shall notify the Office of the Chief Financial Officer for the preparation of billing at the agreed-upon milestones of a reimbursable agreement. For budgeting purposes, each performing organization will be asked to estimate the resource requirements expected to be applied to each agreement and to provide this data to the Technology Transfer Department for consolidation with other inputs.

3.7 The authority to enter into Domestic Space Act Agreements on behalf of MSFC resides with the Center Director. The authority to enter into agreements can be delegated by the Center Director. Such designation must be in writing and indicate the extent of

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the delegation. Refer to MPD 1200.3 for this delegation authority.

3.8 Agency concurrence requirements are outlined in NPD 1050.1. In general, for agreements at MSFC, the concurrences of the Director(s) or Manager(s) of the performing organization(s), the Chief Council, Chief Financial Officer (CFO), Procurement Officer, and the Center Operations Directorate are required. Should the agreement require execution by the Center Director, the concurrence of the Associate Director and the Deputy Director will be required. If the resources requested are under the management of a project office, the concurrence of the appropriate project manager is also required. If the agreement involves the loan of equipment or transfer of property off MSFC, the concurrence of the Supply and Equipment Management Officer will be required. Modifications of agreements shall require the same concurrence as the initial agreement unless no additional time or MSFC resources are required, in which case the modification may be signed by the respective administrative points-of-contact.

#### **4. RECORDS**

Space Act Agreements and "Other Transactions" are records and are maintained by the Technology Transfer Department, External Customer Agreements, Records Custodian. The records will be maintained and dispositioned according to NPG 1441.1, Schedule NRRS 1/6.B, 1/7.A.

#### **5. FLOW DIAGRAM**

Refer to CD30-OWI-001, "Technology Transfer Department Organizational Work Instruction" for the Space Act Process Flow Diagram.